



DEPARTMENT OF TRANSPORTATION

4910-EX-P

Federal Motor Carrier Safety Administration

49 CFR Part 396

[Docket No. FMCSA-2015-0176]

RIN 2126-AB81

Amendments to Regulatory Guidance Concerning Periodic Inspection of Commercial Motor Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Amendment of regulatory guidance.

SUMMARY: FMCSA amends regulatory guidance, previously published in the **Federal Register**, regarding the periodic inspection of commercial motor vehicles (CMVs). Elsewhere in today's issue of the **Federal Register**, FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to, among other things, eliminate the option for a motor carrier to satisfy the periodic (annual) inspection requirement through a violation-free roadside inspection. As a result of this amendment to the FMCSRs, certain regulatory guidance is amended to ensure consistency between the FMCSRs and the published guidance.

DATES: Effective Date: This regulatory guidance is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202-366-5370; michael.huntley@dot.gov.

SUPPLEMENTARY INFORMATION: On November 17, 1993, the Federal Highway Administration (FHWA)¹ published “Regulatory Guidance for the Federal Motor Carrier Safety Regulations” at 58 FR 60734. The publication included interpretations of 49 CFR 396.17, a rule that requires all CMVs to be inspected at least once every 12 months in accordance with Appendix G to the FMCSRs (“Minimum Periodic Inspection Standards”), and 49 CFR 396.23, a rule that identifies alternative inspections that are considered equivalent to the annual inspection required under 49 CFR 396.17. The Agency interpreted the regulations to permit a roadside inspection to be considered as equivalent to the annual inspection. The regulatory guidance was republished on April 4, 1997, at 62 FR 16370.

A final rule issued by FMCSA, published elsewhere in today’s issue of the **Federal Register**, amends 49 CFR 396.17(f) and removes 49 CFR 396.23(a) to eliminate the option for a motor carrier to meet the periodic inspection requirements through roadside inspections.

Because not every element of Appendix G is reviewed/inspected during a roadside inspection conducted under the North American Standard Inspection, most roadside inspections do not meet the periodic (annual) inspection requirements under 49 CFR 396.17. For this reason, FMCSA does not believe it is appropriate to continue to allow motor carriers to use roadside inspections conducted by enforcement officials to satisfy the annual inspection requirements in 49 CFR 396.17(f). Motor carriers or their agents will now be required to complete a periodic inspection of every CMV under their control in accordance with Appendix G at least once every 12 months, irrespective of whether a roadside inspection is performed, unless the vehicle is

¹ The Motor Carrier Safety Improvement Act of 1999 [Public law 106-159, 113 Stat. 1748 (December 9, 1999)] established the FMCSA in the Department of Transportation. On January 4, 2000, the Office of the Secretary published a final rule delegating to the FMCSA Administrator the motor carrier safety functions required by MCSIA, which included certain motor carrier safety functions previously delegated to the FHWA (65 FR 200).

subject to a mandatory State inspection program in accordance with 49 CFR 396.23 which has been determined to be as effective as the requirements of 49 CFR 396.17.

Given the amendments to 49 CFR 396.17(f) discussed above, the final rule also removes 49 CFR 396.23(a), which currently permits a roadside inspection program of a State or other jurisdiction to be considered as meeting the periodic inspection requirements of 49 CFR 396.17.

As a result of the final rule, and to maintain consistency between the amended FMCSRs and the published regulatory guidance, two regulatory guidance questions/answers are amended as follows:

Section 396.17, Question 1:

Question 1: Some of a motor carrier's vehicles are registered in a State with a mandated inspection program which has been determined to be as effective as the Federal periodic inspection program, but these vehicles are not used in that State. Is the motor carrier required to make sure the vehicles are inspected under that State's program in order to meet the Federal periodic inspection requirements?

Guidance: If the State requires all vehicles registered in the State to be inspected through its mandatory program, then the motor carrier must use the State program to satisfy the Federal requirements. If, however, the State inspection program includes an exception or exemption for vehicles which are registered in the State but domiciled outside of the State, then the motor carrier may meet the Federal requirements through a self-inspection, a third party inspection, or a periodic inspection performed in any State with a program that the Federal Motor Carrier Administration (FMCSA) determines is comparable to, or as effective as, the part 396 requirements.

Section 396.23, Question 1:

Question 1: Can a violation-free Commercial Vehicle Safety Alliance (CVSA) Level I or Level V inspection be used to satisfy the periodic inspection requirements of § 396.17?

Guidance: No, a CVSA Level I or Level V inspection is not equivalent to the Federal periodic inspection requirements.

Issued on July 14, 2016

T. F. Scott Darling, III
Acting Administrator

[FR Doc. 2016-17362 Filed: 7/21/2016 8:45 am; Publication Date: 7/22/2016]